

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HECTOR PLACIDO and GEOVANY
LOPEZ, individually and on behalf of all
other employees similarly situated,

Plaintiffs,

REPORT AND
RECOMMENDATION

-against-

18 CV 6864 (ENV)(RML)

ABC CORP., d/b/a Kin Khao Thai Kitchen,
JAKRAPOP PANURACH, a/k/a/ Pop, and
BIN “DOE,”

Defendants.

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LEVY, United States Magistrate Judge:

Plaintiffs Hector Placido and Geovany Lopez (“plaintiffs”) commenced this action on December 3, 2018 under the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq. and the New York Labor Law. (See Complaint, dated Dec. 3, 2018, Dkt. No. 1.) The Clerk of the Court noted defendants’ defaults on March 26, 2019. (See Clerk’s Entry of Default, dated Mar. 26, 2019, Dkt. No. 9.) On March 16, 2020, after nearly a year of inactivity, I ordered plaintiffs to move for default judgment by March 30, 2020 or show cause why the case should not be dismissed for failure to prosecute.¹ (See Order, dated Mar. 16, 2020.) To date, plaintiffs have not moved for default judgment or otherwise responded to my order. Accordingly, I am constrained to recommend that this case be dismissed for lack of prosecution.

¹ The only activity occurring after entry of default was a motion to withdraw as counsel, filed by Hang & Associates PLLC (“Hang & Associates”), the law firm representing plaintiffs, on behalf of attorney Lorena P. Duarte, who had left her employment with the firm. (See Motion to Withdraw as Counsel, dated June 20, 2019, Dkt. No. 11.) Despite Ms. Duarte’s withdrawal, Hang & Associates stated that it would continue its representation of plaintiffs. (See id.) I granted the motion on June 21, 2019. (See Order, dated June 21, 2019.)

Any objection to this Report and Recommendation must be filed with the Clerk of the Court, with courtesy copies to Judge Vitaliano and to my chambers within fourteen (14) days. Failure to file objections in a timely manner may waive a right to appeal the District Court's order. See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 6(a), 6(d), 72.

Respectfully submitted,

/s/
ROBERT M. LEVY
United States Magistrate Judge

Dated: Brooklyn, New York
April 22, 2020